

Remarks

Claims 1, 7, 11, 12 and 18 are amended in this application. Claims 2, 5-6 and 14-15 are canceled. Claim 1, 3-4, 7-13, and 16-20 are pending. No issue of new matter arises.

Claim Amendment:

In view of the Examiner's comments, Applicants respectfully amend the claims 1, 11 and 18 to recite "gene coding for enzyme whose activity is detectable on the basis of conversion of a substrate" and "adding said substrate with a delay". Support for current amendment can be found throughout specification of the instant application, more specifically, in page 4, lines 15-21 and page 11, lines 4-10 (unexpected result). Applicants also amend the typographic errors in claims 12 and 18, and correct dependent Claims 7 and 10 due to cancellation of Claims 5 and 6. The support can be found in previous claims. No issue of new matter arises.

Response to 35 U.S.C. § 102 rejection

The Examiner rejected Claims 1, 3-5, 16-17 and 19 as being anticipated by Brown et al.

Claims 5 is now canceled. Rejection to this claim is now moot.

Claim 6 was not rejected. The subject matter of Claim 6 is therefore incorporated into amended Claim 1. Claims 3-4, 16-17 and 19 ultimately depend from Claim 1. Thus all amended claims are patentable over the cited prior art. Withdrawal if this rejection is respectfully requested.

Response to 35 U.S.C. § 103 rejection

I. Claim 18

The Examiner rejected claim 18 under 35 U.S.C. § 103 (a) as being unpatentable over Crossin et al in view of US 6,063,578 and further view of US 20050118690.

Claim 18 is amended to incorporate the subject matter of Claims 5 and 6 that is not taught or suggested by cited reference. Both “gene coding for enzyme whose activity is detectable on the basis of conversion of a substrate” and “adding said substrate with a delay after said contacting steps” are featured in Claim 18. Adding said substrate with a delay would not have been obvious to an ordinary skilled artisan nor the result of experiment obtained from this instant invention would have been expected by an ordinary skilled artisan.

Crossin et al does not teach a method with adding the substrate with a delay. Both US 6,063,578 and US 20050118690 do not remedy this deficiency. Therefore, the cited references, either alone or in combination, set forth by the Examiner fails to teach or suggest all the limitation of amended claims, and the rejection should properly be withdrawn.

II. Claims 1, 3-11, 13-14, and 20

The Examiner rejected claims 1, 3-11, 13-14, and 20 under 35 U.S.C. § 103 (a) as being unpatentable over Keating et al in view of US 20050118690 and further view of Yang et al.

Claims 5 and 6 are canceled. Rejection to those claims are now moot.

Claims 1 and 11 have been amended to recite “enzyme whose activity is detectable on the basis of conversion of a substrate” and “adding said substrate with a delay”. Claim 3-4, 7-11, 13-14 and 20 are dependent claims which incorporate all the limitations of parent claims.

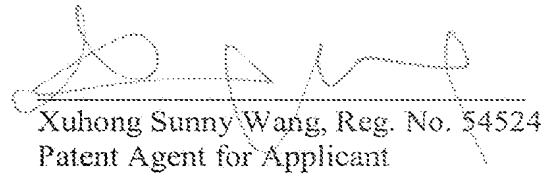
The method that Keating et al teaches is to add the substrate (LARII) after cell extracts were prepared (Keating et al, Luciferase assays section of page 4288), which teaches away from the instant invention. Both US 20050118690 and Yang et al do not remedy this deficiency. Therefore, the cited references, either alone or in combination, set forth by the Examiner fails to teach or suggest all the limitation of amended claims, and the rejection should properly be withdrawn.

Conclusion:

The Applicants respectfully submit that claims, as amended, are in condition for allowance, and respectfully request early, favorable action on this application. Should the Examiner believe that an interview would advance the prosecution of this application, the Applicants invite the Examiner to contact the undersigned at 908.231.3648.

A request for a three-month extension of time and authorization for the required fee accompany this amendment, extending the period of reply to March 21, 2008 is attached. The Commissioner is authorized to withdraw any additional fee or credit any overpayment necessitated by this response to Deposit Account No. 18-1982.

Respectfully submitted,



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